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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

VIEAUX, GARY

ART UNIT

PAPER NUMBER

2622

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

09/781,917

Applicant(s)

FISHER ET AL.

Examiner

Gary C. Vieaux

Art Unit

2622

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 03 January 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1-46.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

Continuation of 3. NOTE: Regarding the 35 U.S.C. 112 rejections of claims 1-41 and 43-46, the removal of the limitation "primary" would allow the claims to fulfill the written description requirement. It is noted that the claims were examined without consideration to this limitation in the Final Action dated November 3, 2006.

Regarding claims 1 and 21, Applicants submit that the Sarbadhikari reference does not disclose any "on-line" procedures (Remarks, p. 21.) Additionally, Applicants also submit that the Sarbadhikari reference does not disclose any type of "active bi-directional electronic communication path" (Remarks, p. 21.) The Examiner respectfully disagrees.

Sarbadhikari provides a teaching of a data source being employed for not only downstream processing of images, but also being employed to transfer files (data, code, etc.) to an imaging device (col. 4 lines 37-56 - lines 40-49 inclusive.) Sarbadhikari further provides that these files may be selected by the user by means of appropriate intervention through the camera, and that the data source is capable of two-way communication with the imaging device, communication that occurs while the data source is connected to the imaging device. This selection of files by the user, during two-way communication between the data source connected to the imaging device is clearly found to be on-line management while an active bi-directional electronic communication path exists.

Applicants further submit that the Sarbadhikari reference does not disclose performing one or more on-line management procedures "while an active bi-directional electronic communication path exists" (Remarks, p. 21.) The Examiner respectfully disagrees.

Column 4 lines 37-56 (lines 40-49 inclusive) of Sarbadhikari provides a teaching of a data source being employed for not only downstream processing of images, but also being employed to transfer files (data, code, etc.) to an imaging device. Sarbadhikari further provides that these files may be selected by the user by means of appropriate intervention through the camera, and that the data source is capable of two-way communication with the imaging device, communication that occurs while the data source is connected to the imaging device. This selection of files by the user, during two-way communication between the data source connected to the imaging device is clearly found to be on-line management while an active bi-directional electronic communication path exists.

Applicants also submit that the Sarbadhikari reference does not disclose one or more on-line management procedures "during which a system user interactively utilizes said imaging device to view said one or more ancillary data files that are stored on said data source, to manipulate said one or more ancillary data files that are stored on said data source, to select said one or more ancillary data files that are stored on said data source" (Remarks, p. 21-22.) Again, the Examiner respectfully disagrees.

Sarbadhikari, at column 7 lines 15-50, teaches the imaging device being used to view operational information related to the imaging device, including ancillary data files. Sarbadhikari further provides that the data files, when available via the data source, can be identified on a display and that user intervention for selection of data files is conducted by the use of inputs in conjunction with the imaging device display, which is found to be a demonstration of one or more on-line management procedures during which a system user interactively utilizes said imaging device to view, manipulate, and select said ancillary data files.

Applicants submit that the Steinberg reference fails to provide any enabling discussion with regard to receiving data from a remote destination (Remarks, p. 22.) Applicants are reminded that issues regarding enablement, or lack thereof, are associated with and relevant to the Applicants' claimed invention only, and are not otherwise pertinent to the references used in rejection of the instant application. Moreover, Applicants submit that the Steinberg reference teaches away from their claimed invention, as the data flow described in Steinberg is in the opposite direction to the data flow recited by the Applicants (Remarks, p. 23.) Again, the Examiner respectfully disagrees.

The Sarbadhikari reference, at column 11 lines 26-37, teaches the data source being implemented as a computer, which is connected to the imaging device. However, although Sarbadhikari teaches the data source being implemented as a computer, Sarbadhikari is not found to teach the computer being a computer in a distributed computer network (emphasis added.) Therefore, the Steinberg reference is employed to demonstrate the teaching of a computer being employed as a computer in a distributed computer network. Steinberg, at column 4 at lines 2-4 and 49-53, and by way of figure 1 indicators 16 and 18, clearly teaches an imaging device connected to a computer and the computer being a computer in a network, bi-directionally communicating data. Motivation to combine the teaching of these references was also provided (Office Action dated July 15, 2005), which stated "[i]t would have been obvious to one of ordinary skill in the art at the time of the invention to have incorporated a computer in a distributed computer network as taught by Steinberg, with the computer of the system for manipulating image data as taught by Sarbadhikari, in order to create a system for manipulating image data which allowed for transferal of one or more ancillary data files from a computer far removed from that of the imaging device configured to capture said image data, as well as to possibly allow for the transferal of one or more ancillary data files from more than one computer. Based on the foregoing responses, the Examiner respectfully maintains the 35 U.S.C. § 103(a) rejections to claims 1 and 21.

Regarding claims 2-20 and 22-40, each depend either directly from or indirectly from independent claims 1 or 21, and thus inherit all the limitations of independent claims 1 or 21, respectively. Consequently, based on their dependence and the foregoing response to arguments relating to claims 1 and 21, the Examiner respectfully maintains the 35 U.S.C. § 103(a) rejections to claims 2-20 and 22-40, as they relate to claims 1 or 21, respectively.

Further regarding claims 12 and 32, Applicant also submits that cited references fail to teach that the ancillary data files are created by both a system user on a local computer device and a system manufacturer utilizing ancillary-data production equipment", as claimed by Applicants (Remarks, p.27.) The Examiner respectfully disagrees.

Sarbadhikari and Steinberg teach all the limitations of claim 12 (see the 103(a) rejection to claim 1 supra), including teaching a system wherein said one or more ancillary data files are created by a system manufacturer utilizing ancillary-data production equipment ("264 - col. 6 lines 58-63.) However, although neither Sarbadhikari nor Steinberg is found to teach a system wherein said one or more ancillary data files are also created by a system user on a local computer device, Aihara is found to teach that a user can create the ancillary data file (col. 7 lines 33-38.) It would have been obvious to one of ordinary skill in the art at the time of the invention to allow for a user to create the ancillary data file, in conjunction with the system as taught by Sarbadhikari and Steinberg in which ancillary data files are created by a system manufacturer, so that a user may not only have the ability to employ the ancillary data files provided by a manufacturer, but also to create their own ancillary data files in order to give the result its distinctive appearance ("190 - col. 7 lines 36-38.) It is further noted that the specification at lines 1-8 of page 15, provides for the creation of ancillary data files by the system user in one embodiment, and alternatively, by a manufacturer in another.

Further regarding claims 18 and 38, Applicants submit that Anderson fails to teach a "data source being implemented as a computer in a distributed computer network" (Remarks, p. 28.) However, as Anderson was presented to provide a teaching of a file descriptor identification procedure and menu reorganization (please see Office Action dated July 15, 2005), and as the limitations of a "data source being implemented as a computer in a distributed computer network" as claimed by Applicants were previously addressed in relation to their teachings as provided in the Sarbadhikari and Steinberg references as they relate to claims 1 and 21, respectively, the Examiner

respectfully maintains the 35 U.S.C. § 103(a) rejection to claims 18 and 38, as they relate to the limitations as previously discussed.

Regarding claim 41, as Applicants have incorporated their prior remarks by reference with regard to independent claim 41 (Remarks, p. 29), the forgoing responses to the rejections of claim 21 are provided as response in kind.

Regarding claim 42, Applicants submit that the Steinberg reference fails to identically teach every element of the claims, and therefore does not anticipate the present invention (Remarks, p. 15.) The Examiner respectfully disagrees.

The language of claim 42 is as follows: "A system for manipulating image data, comprising:

means for storing one or more ancillary data files;

means for capturing said image data;

means for transferring said one or more ancillary data files from said means for storing to said means for capturing; and

means for manipulating said image data with said one or more ancillary data files."

First, the Specification provides means for storing one or more ancillary data files which includes a service on a distributed computer network like the Internet, a discrete electronic device such as a personal computer, or a removable, non-volatile memory device such as a flash memory (p. 6 lines 16-20.) Correspondingly, the Steinberg reference provides means for storing one or more ancillary data files which also includes a personal computer (fig. 1 indicator 14; col. 3 lines 57-60), as well as a removable, non-volatile memory device (fig. 1 indicator 22; col. 4 lines 1-3.) Therefore, the claimed limitation is found by the Examiner to be anticipated by the prior art element.

Second, the Specification provides means for capturing said image data that includes an electronic camera device (fig. 1 indicator 110; p. 6 lines 25-26.) Equally, the Steinberg reference provides means for capturing said image data that also includes a camera (fig. 1 indicator 10.) Therefore, the claimed limitation is found by the Examiner to be anticipated by the prior art element.

Third, the Specification provides means for transferring said one or more ancillary data files from said means for storing to said means for capturing which includes wireless communications (fig. 6 indicator 632), removable storage media (fig. 6 indicator 636), and "any required type of interfaces or connectors (not shown) for coupling camera device 110 and other electronic devices or entities to thereby support bi-directional communications" (p. 12 lines 1-27.) Correspondingly, the Steinberg reference provides means for transferring said one or more ancillary data files from said means for storing to said means for capturing which also includes wireless communications, removable storage media, and cable (fig. 1 indicators 20, 22, and 38; col. 3 lines 45-60.) Therefore, the claimed limitation is found by the Examiner to be anticipated by the prior art element.

Fourth and finally, the Specification provides means for manipulating said image data with said one or more ancillary data files that includes a central processing unit (fig. 3 indicator 344) employed in combining of image data with ancillary data (p. 9 lines 12-29.)

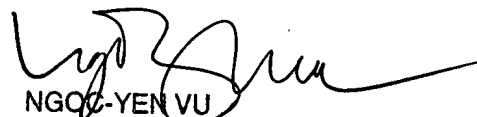
Correspondingly, the Steinberg reference provides means for manipulating said image data with said one or more ancillary data files which also includes a processor to execute camera functionality (fig. 4 indicator 122; col. 7 lines 14-19.) Therefore, the claimed limitation is found by the Examiner to be anticipated by the prior art element.

Based on the foregoing comparisons, it is demonstrated that each of the claimed limitations are also found within the Steinberg reference, and therefore the rejection to claim 42 is forthwith maintained by the Examiner.

Regarding claims 43 and 44, any addition or subtraction of limitations alters the claims and raises new issues that would require further search and/or consideration.

Regarding claim 45, Applicant submits that the clause "any appropriate information" would reasonably convey to one skilled in the art that any and all of the specifically disclosed examples cited may be utilized as part of a "descriptor" (Remarks, p. 17.) The Examiner respectfully disagrees. The clause "any appropriate information" does not provide a mechanism for the addition of new matter or interpretation of the plain meaning of the text. The Specification clearly provides for the inclusion of data descriptors in the alternative "or" and not in the more inclusive alternative/addition language choice of "and/or", therefore invoking a selection between the nature of the associated data as a data format or a data type, as well as organization of the associated data as a data structure or a data size.

Regarding claim 46, any addition or subtraction of limitations alters the claim and raises new issues that would require further search and/or consideration..



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